

110TH CONGRESS  
1ST SESSION

# H. R. 3193

To amend title XIX of the Social Security Act to establish a minimum State dispensing fee for covered outpatient multiple source drugs under the Medicaid Program, to modify the application of the average manufacturer price (AMP) methodology to drug rebates, to eliminate the State option to increase the cap amount on the equity asset test for individuals' eligibility for long-term care assistance under such program, and to extend an SSI asset verification demonstration to Medicaid.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2007

Mr. DEAL of Georgia (for himself, Mr. BARTON of Texas, and Mr. BUYER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to establish a minimum State dispensing fee for covered outpatient multiple source drugs under the Medicaid Program, to modify the application of the average manufacturer price (AMP) methodology to drug rebates, to eliminate the State option to increase the cap amount on the equity asset test for individuals' eligibility for long-term care assistance under such program, and to extend an SSI asset verification demonstration to Medicaid.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Access to Community  
3 Pharmacy Preservation Act of 2007”.

4 **SEC. 2. DISPENSING FEES FOR MEDICAID COVERED OUT-**  
5 **PATIENT DRUGS.**

6       (a) IN GENERAL.—Section 1927(e) of the Social Se-  
7 curity Act (42 U.S.C. 1396r–8(e)) is amended by adding  
8 at the end the following new paragraph:

9               “(6) DISPENSING FEES.—

10               “(A) IN GENERAL.—A State which pro-  
11 vides medical assistance for covered outpatient  
12 drugs shall pay a dispensing fee for each cov-  
13 ered outpatient drug that is dispensed, in ac-  
14 cordance with this paragraph. A State may vary  
15 the amount of such dispensing fees, including  
16 taking into account the special circumstances of  
17 pharmacies that are serving rural or under-  
18 served areas or that are sole community phar-  
19 macies, so long as such variation is consistent  
20 with subparagraph (B).

21               “(B) MINIMUM DISPENSING FEE PAYMENT  
22 FOR MULTIPLE SOURCE DRUGS.—A State shall  
23 establish a dispensing fee under this title for a  
24 covered outpatient drug that is a multiple  
25 source drug described in paragraph (4) (wheth-  
26 er or not it may be an innovator multiple source

1 drug) in an amount that is not less than \$8 per  
 2 prescription unit. The Secretary shall define  
 3 what constitutes a prescription unit for pur-  
 4 poses of the previous sentence.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall take effect with respect to a State on  
 7 the later of (1)—

8 (1) the date that is 3 months after the date of  
 9 the enactment of this Act; or

10 (2) the date that is 3 months after the close of  
 11 the first regular session of the State legislature that  
 12 begins after the date of the enactment of this Act.

13 **SEC. 3. IMPROVING STATE FLEXIBILITY IN PHARMACY RE-**  
 14 **IMBURSEMENT.**

15 (a) IN GENERAL.—Section 1927(e)(5) of the Social  
 16 Security Act (42 U.S.C. 1396r–8(e)(5)) is amended by  
 17 striking “250 percent” and inserting “300 percent”.

18 (b) VARIANCE PERMITTED IN APPLICATION OF AV-  
 19 ERAGE MANUFACTURER PRICE.—Such section is further  
 20 amended by adding at the end the following: “Nothing in  
 21 this paragraph shall be construed as preventing a State  
 22 from varying the amount paid different pharmacies for  
 23 such a product, including taking into account the special  
 24 circumstances of pharmacies that are serving rural or un-  
 25 derserved areas or that are sole community pharmacies.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect on January 1, 2008.

3 **SEC. 4. ELIMINATION OF STATE OPTION TO INCREASE CAP**  
 4 **AMOUNT ON INDIVIDUALS' EQUITY ASSET**  
 5 **TEST FOR ELIGIBILITY FOR LONG-TERM**  
 6 **CARE ASSISTANCE UNDER MEDICAID.**

7 (a) IN GENERAL.—Section 1917(f)(1) of the Social  
 8 Security Act (42 U.S.C. 1396p(f)(1)) is amended by strik-  
 9 ing subparagraph (B).

10 (b) CONFORMING AMENDMENTS.—Such section is  
 11 further amended—

12 (1) in subparagraph (A), by striking “subpara-  
 13 graphs (B) and (C)” and inserting “subparagraph  
 14 (B)”;

15 (2) by redesignating subparagraph (C) as sub-  
 16 paragraph (B); and

17 (3) in subparagraph (B), as so redesignated, by  
 18 striking “dollar amounts” and inserting “dollar  
 19 amount”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to individuals who are determined  
 22 eligible for medical assistance with respect to nursing fa-  
 23 cility services or other long-term care services based on  
 24 an application filed on or after the date of the enactment  
 25 of this section.

1 **SEC. 5. EXTENSION OF SSI ASSET VERIFICATION DEM-**  
2 **ONSTRATION TO MEDICAID.**

3 (a) IN GENERAL.—Subject to subsection (b), the Sec-  
4 retary of Health and Human Services shall collaborate  
5 with the Commissioner of Social Security to provide for  
6 the use, for purposes of verifying financial eligibility for  
7 medical assistance under State plans under title XIX of  
8 the Social Security Act, of the system administered by the  
9 Commissioner (under section 1631(e)(1)(B)(ii) of such  
10 Act, 42 U.S.C. 1383(e)(1)(B)(ii)) under which the Com-  
11 missioner may obtain information held by financial institu-  
12 tions in order to verify eligibility for benefits under title  
13 XVI of such Act.

14 (b) LIMITATION.—For purposes of this section, use  
15 of the system described in subsection (a), and the informa-  
16 tion obtained through such system, shall be limited to de-  
17 terminations of eligibility for medical assistance in States  
18 in which such system is being used by the Commissioner  
19 to verify eligibility for benefits under such title XVI.

20 (c) SHARING BY COMMISSIONER OF INFORMATION  
21 OBTAINED FROM FINANCIAL INSTITUTIONS.—Notwith-  
22 standing the Right to Financial Privacy Act of 1978 (12  
23 U.S.C. 3401 et seq.) or any other provision of law, infor-  
24 mation obtained by the Commissioner from financial insti-  
25 tutions under the system described in subsection (a) may,  
26 for purposes of carrying out this section, be shared with

1 the agencies of the State specified in subsection (b) which  
2 are administering the plans of such States under title XIX  
3 of the Social Security Act.

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